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C.R.P(MD)No.1613 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

C.R.P(MD)No.1613 of 2018

and

C.M.P. (MD)Nos.7096/18 and 2167 of 2019

A.Nagarajan

Dr.A.Kanagasundaram (died)

...Petitioners / Petitioners /
Respondents

Vs.

1.Padmavathi

2.Jeyalakshmi

... Respondents / Respondents /
Petitioners

PRAYER: Civil Revision Petition is filed, under Section 115 CPC, against the order dated 18.06.2018 made in CMP.No.14 of 2018 in P.No.64 of 2017 on the file of the Revenue Court, Special Deputy Collector, Trichy.

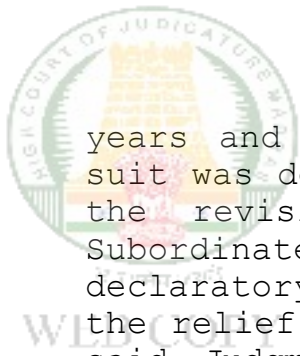
For Petitioners : Mr.Arun Jeyathram
for Mr.G.Gomathi Sankar

For Respondents : Mr.S.K.Mani

O R D E R

Challenge in the present Civil Revision Petition is, as against the order dated 18.06.2018 passed in CMP.No.14 of 2018 in P.No.64 of 2017 by the Special Deputy Collector, Revenue Court, Trichy.

2.The land in question was originally belonged to the Government and one Arumugam (father of the petitioners) was the cultivating tenant. Thereafter, the land was purchased by one Rajamani Ammal and after that, the said Arumugam approached her and attorned to be a tenant on the same rent. Since he did not pay the rent, the said Rajamani Ammal filed a suit in O.S.No.708 of 1983, before the II Additional District Munsif, Tiruchirappalli, for recovery of possession. In the said suit, the said Arumugam contended that he was in occupation of the property for the past 40



years and the property was belonging to the Government. The said suit was decreed on 28.02.1994, as prayed for. As against the same, the revision petitioner filed A.S.No.131 of 1994 before the Subordinate Judge, Tiruchirappalli. In the said appeal suit, the declaratory relief was confirmed by the lower appellate Court and the relief for recovery of possession was dismissed. As against the said Judgment and decree, the said Rajamani Ammal, filed Second Appeal in S.A.No.390 of 1996 before this Court. In the second appeal, this Court directed the owner of the land to approach the authority under the Tamil Nadu Cultivating Tenants Protection Act, to seek eviction. Subsequently, the said Rajamani Ammal had executed two Gift Settlement Deeds in favour of the respondents herein. Therefore, as per the direction of this Court in the Second Appeal, Petition No.64 of 2017 was filed by the respondents herein to evict the petitioner on the following grounds:

(a).Non Payment of rent for more than two decades;

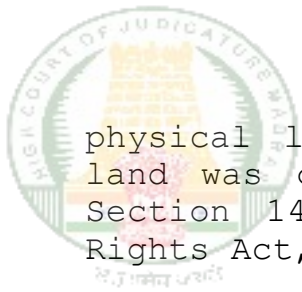
(b).Ceasing cultivation of the land for the past two decades;
and

(c).Wilful denial of title of the owner of the property.

Pending the said petition, the petitioner herein filed C.M.P.No.14 of 2018 in Petition No.64 of 2017, to direct the respondents to file certified copy of the record of tenancy for the land by fixing time limit and on their failure, to reject the main petition. The said petition was dismissed. As against the same, the petitioner has filed the present Civil Revision Petition.

3.The learned counsel for the revision petitioner would contend that the father of the petitioner was a cultivating tenant under the previous owner of the property and it was confirmed by the Civil Court and he was passed away. Therefore, as the legal heir of the deceased, the petitioner is also a cultivating tenant. Further, he would submit that the mother of the respondents had filed eviction petition, but she did not produce the tenancy record in view of the order of this Court passed in the Second Appeal No.390 of 1996 only the respondents have approached the Revenue Court, but in the change of circumstances, this Court may direct the respondents to approach the Civil Court.

4.The learned counsel for the respondents would contend that the respondents have not recognized the petitioner as cultivating tenant and therefore, he is not at all a cultivating tenant of the petition mentioned property. He would further submit that the issue decided by the learned Revenue Court in the Miscellaneous Petition was only jurisdictional issue and that the main petition was not all all decided so far. The learned counsel would further contend that no receipt for payment of any rent produced by the revision petitioner and even any Record of Tenancy Rights Extract was produced by him and that he had not proved that the petition mentioned land was an agricultural land and that he contributed his



physical labour for cultivating the same. The petition mentioned land was only a house site and that the objection raised under Section 14(1) of the Tamil Nadu Agricultural Record of Tenancy Rights Act, was dismissed by the learned Revenue Court.

5. Heard the learned counsel for the petitioner; the learned counsel for the respondents and perused the materials available on record.

6. It is an admitted fact that the respondents are the owner of the property and the petitioner is the legal heirs of the deceased Arumugam, who was the cultivating tenant under the Tamil Nadu Cultivating Tenants Protection Act. So that the respondents have admitted the fact that the father of the petitioner was the cultivating tenant. The Second Appeal in S.A.No.390 of 1996 was filed before this Court and in that second appeal, this Court directed the respondents to file appropriate application before the concerned authorities. Accordingly, they have filed the application, however, before filing the said application, the original cultivating tenant was passed away. After his death, there is no agreement/lease between the respondents and the revision petitioner and therefore, the petitioner has not registered with the Record of Tenancy Rights as per Section 14(2) of the Tamil Nadu Agricultural Lands Record of Tenancy Rights Act, 1969, as he is the cultivating tenant. Therefore, in the present case, the respondents are not treating the petitioner as cultivating tenant. If the owner is recognized that the petitioner is the cultivating tenant, then the remedy is available before the authorities concerned and it is in a summary nature, because the owner and tenant relationship is determined.

7. But in the present case on hand, the facts are entirely different. The respondents herein have not recognized the petitioner as cultivating tenant. When such being the case, the remedy is not in approaching the concerned officer for eviction of the petitioner, but to approach the Civil Court under Common Law remedy and to prove that the petitioner is not a cultivating tenant and to evict him, which requires detailed enquiry by allowing the parties to the trial, which process can be conducted only in the Civil Suit and not by the concerned officer.

8. In view of the above stated position, this Court is of the opinion that the matter has to be adjudicated by the Civil Court and not by the authorities. Since this Court relegated the parties to the Civil Court, the entire proceedings before the Revenue Court in P.No.64 of 2017 is hereby quashed by this Court by invoking Article 227 of the Constitution of India. While setting aside the proceedings of the Court below, this Court directed both the parties to approach the Civil Court to seek appropriate remedies within a period of three months from the date of receipt of a copy of this



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order. As stated above, this Court directed the parties to approach the Civil Court to work out their remedies. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (co)

// True Copy //

Sub Assistant Registrar(CS)

To

The Special Deputy Collector,
Revenue Court, Trichy.

+1cc to Mr.S.K.Mani, Advocate Sr.No.90585

Order made in
C.R.P(MD)No.1613 of 2018
27.09.2019

VB(18.11.2019) 4P 3C